



Planning Department

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MEMORANDUM

To: Planning Board **Date:** May 12, 2016
From: Roland Bartl, AICP, Planning Director *R. B.*
Subject: 37 Mohegan Road – Definitive Subdivision – Proposed Residential Compound

Location: 37 Mohegan Road
Owner: Aaron Jeanson and Kaarin Jeanson
Applicant: Aaron Jeanson and Kaarin Jeanson
Engineer: Stamski and McNary, Inc.
Proposed Lots: 2
Proposed Units: 2 dwelling units (1 existing to remain; 1 new)
Proposed Streets: Mohegan Lane
Street length: 97 feet
Land area: 3.88 acres
Common Land: none
Map/Parcel: D2-133
Zoning: Residence 2 (R-2); Groundwater Protection District (GPD) Zone 3;
Flood Plain Overlay District
Filing Date: April 14, 2016
Hearing: May 17, 2016
Decision vote due: July 13, 2016

Attached for your review are the plan and application for the proposed “Mohegan Lane” Residential Compound definitive subdivision, and comments from other Town departments, committees, and agencies. Please review the other departmental comments. They are not necessarily repeated here.

The Planning Board on March 2, 2016 approved conditionally a preliminary subdivision for this property. This non-binding decision is included in the application package.

A Residential Compound (See Section 10 of the Subdivision Rules and Regulations, herein referred to as SRR) allows for design waivers from SRR, Sections 8 and 9. Although design standards for Residential Compounds follow Section 3.8.1.5 of the Zoning Bylaw (ZBL) and its subsections for Common Drives, a proof plan must be submitted to demonstrate that the proposed street and lots can meet the standard SRR requirements of Sections 8 and 9.

Overview

The Applicant proposes a Residential Compound, Mohegan Lane, which would extend Mohegan Road an additional 97 feet in length to provide frontage to one additional lot for a total of two lots. The existing dwelling on the Lot would remain, and one new dwelling is proposed. The proposed subdivision is located at the end of Mohegan Road to the south and abuts Town owned (General Municipal) land to the north. Wetlands cover a good majority of the westerly half of the property; the existing dwelling unit and the proposed dwelling unit are located outside of the 75-foot wetlands buffer zone, but are within the 100-foot buffer zone. The street layout on the proof plan would require a minimal amount of wetland fill. The proposed residential compound is completely outside of the wetlands but is within the 50-foot buffer zone. The Applicant will be required to file with the Conservation Commission for an Order of Conditions.

Proof Plan

1. The existing layout of Mohegan Road is +/- 560 feet from the property line of 37 Mohegan Road to the intersection of Freedom Farm Road; this portion of the road is a single access street. The roadway length is pre-existing non-conforming. SRR, Section 8.1.17 limits single access streets to be no longer than 500 feet:

*8.1.17 Residential SINGLE ACCESS STREETS other than DEAD-END STREETS, whether temporary or permanent, shall not be longer than 500 feet. **No waiver will be granted unless the following conditions are met**, in which case SINGLE ACCESS STREETS can be as long as 1500 feet:*

8.1.17.1 Condition 1: The SUBDIVISION is an Open Space Development, a Planned Conservation Residential Community, or a Planned Unit Development as defined in the Acton Zoning Bylaw. In such case, the 500 foot SINGLE ACCESS STREET limit shall not apply to a conceptual plan drawn for the purpose of determining the maximum number of building LOTS as required in the Acton Zoning Bylaw.

8.1.17.2 Condition 2: An open space buffer is provided along that portion of any existing public STREET upon which the proposed SUBDIVISION had frontage as of February 6, 1990. The open space buffer shall have a minimum depth of 300 feet. There shall be no buildings or structures within the open space buffer.

The +/-175-foot extension for Mohegan Lane as shown on the proof plan would increase the preexisting non-conforming roadway length. Although the Board has the authority to waive requirements of the SRR, this section specifically states that, “No waiver will be granted unless the following conditions are met...” The application is not part of an Open Space Development, Planned Conservation Residential Community or Planned Unit Development.

2. In all other respects the Proof Plan shows that a standard subdivision and the two lots can meet the applicable requirements of the SRR, sections 8 and 9 design standards, and the zoning bylaw.

Proposed Plan – Residential Compound

3. The proposed street meets the design requirements set forth in ZBL Section 3.8.1.5.

4. SRR, Section 10.1.1.5 states that the Town shall not be requested to accept or maintain the private street, drainage system or other improvements within the Residential Compound. A waiver from this section has not been requested.

In our preliminary plan review we found that the proposed new turn-around would be a better end for Mohegan Road than what exists now, and we recommend that the Applicant discuss with the Engineering Department the possibility of accepting the proposed street as a public way. The Engineering Department now agrees with this assessment; see the Engineering Department's definitive plan review comments for more in-depth discussion on the matter.

Where the proposed turn-around in Mohegan Lane is laid out to accommodate SU-30 design vehicles, it would provide a turn-around for snow plowing and emergency vehicles at the end of Mohegan Road that is superior for public safety and service needs than the existing inadequate and undersized "bubble" with its uncertain legal status. However, the driveway locations in the proposed extension of Mohegan Road do not accommodate public snow plowing operations; they would have to be relocated to meet SRR, section 8.1.18.2 requirements as closely as possible; i.e. no driveway off the ends and no driveway in the roundings.

In our opinion, an outcome whereby the proposed street extension became a public way with a design and construction quality that is acceptable and functional to the Town would be the most convincing rationale and justification for granting a waiver from SRR, Section 8.1.17 (length of single access street limit 500 feet), even if the design remains largely as shown. We would under the circumstances support the granting of the requisite waivers from SRR, Sections 8 and 9 for the design more or less as shown on the Plan, with the exception of the driveway locations, and sidewalk (see below). In this event some other comments in this memorandum would become irrelevant.

Zoning

5. Proposed Lots 1 and 2 meet the dimensional regulations set forth in the ZBL.
6. The Groundwater Protection District Zone 3 poses no restrictions for the single family uses proposed on the lots.
7. All proposed structures are located outside of the Flood Plan Overlay District.

Sidewalks

8. A Residential Compound subdivision contemplates waivers from the standard subdivision design requirements of SRR, Sections 8 and 9, which include the requirement for sidewalks. Typically the Board does not waive the sidewalk requirement for Residential Compounds, but has in the past accepted sidewalk construction in other locations or contributions to the Town's sidewalk fund. At the preliminary plan meeting the applicant had offered a contribution to the Town's sidewalk fund. The definitive plan application now before the Board makes no mention of the Applicant's intent on this subject. Based on our standard contribution rate of \$20/foot of sidewalk in proposed new subdivision streets and \$50/foot of sidewalk along existing street frontages, the appropriate contribution amount for Mohegan Lane would be $(\$20.00 \times 97) + (\$50.00 \times 0) = \$1940.00$.

Responsiveness to Guidance in Preliminary Plan Decision (to the extent that there is discussion on a topic in other paragraphs of this memo the topic is not repeated below)

9. List of requested waivers: Provided; same as with Preliminary Plan application.
10. Private Covenant and Maintenance Agreement: Not provided. It should make reference to the Drainage System O & M Plan (on plan sheet 8) and include it as an appendix.
11. Street addresses - Lot 1 to be shown as 37 Mohegan Road; Lot 2 as 39 Mohegan Road: The proposed definitive plan does not reflect this. The Fire Department now has weighed in on this subject, see their memo.
12. Compliance with the Rules: The definitive plan and the application reasonably comply in form and content with the requirements of the Rules. We defer to the Engineering Department for the review of the design details. See also discussions in other paragraphs of this memo.
13. Responsiveness to departmental preliminary plan review comments -
 - Planning:
 - The definitive plan application contains a proposed easement deed for access to the Town-owned land that abuts the proposed subdivision to the north. We forward it to Town Counsel for review and comments.
 - Engineering:
 - No private way sign shown on the plan. See discussion about private v. public way elsewhere in this memo.
 - For drainage design we defer to further Engineering Department comments. In summary, they question the Site's assumed soil types that underlie the calculations and drainage design.
 - Erosion & sedimentation control plan, and earth works calculations are provided.
 - Acton Water District:
 - The AWD has resubmitted its preliminary plan review comments.

Other

14. The roadway cross-section detail on sheet 7 does not match the dimensions as show on the plan & profile sheet 6.
15. General Note 2 on sheet 7 should be corrected to reference the Acton Subdivision Rules and Regulations.
16. Item 17 of the DIR Form denotes the abutting Town owned parcels as conservation land, and with the expanse of wetlands on them they might as well be. However, they are not designated conservation lands; rather the Town Atlas marks them as "General Municipal".
17. The Fire Department now appears to require a 20-foot paved surface to the within 50 feet of the new dwelling, or else require sprinkler system in the dwelling. This is not what we understood to be the requirement of the new fire code, when amending the Common Driveway standards at the recent Town Meeting after consulting with the Fire Department.

Recommendation

We see four options; one we do recommend:

18. The Board could require a redesign of the proposed street extension to fully comply with SRR, Section 8 and 9; and in return for the waiver from SRR, Section 8.1.17, require that the extension be offered to the Town for public way acceptance.
19. **(Recommended)** The Board could require a partial redesign of the proposed street extension with requisite waivers from SRR, Section 8 and 9 to allow the proposed layout and design substantially as proposed, except for the requirements for driveway location and sidewalk (see also Fire Dept. comment); and in return for the waiver from SRR, Section 8.1.17, require that the extension be offered to the Town for public way acceptance.
20. The Board could require that applicant prove that the Town has permanent rights of record in the existing Mohegan Road turn-around, and if so proven, could approve the subdivision as a private way & Residential Compound more or less as proposed.
21. The Board could choose not to grant the waiver and thereby in effect disapprove the subdivision.

The applicant is aware of this memo and the considerations of public v. private way. He may offer at the hearing a proposed resolution forward, and if acceptable the Board could close the hearing and condition the subdivision approval accordingly. Or, the applicant may need more time to consider his options, in which case it may be appropriate to continue the public hearing into June.

Cc: Engineering Department